

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

Jimmy Earl Matthews,

Defendant.

Criminal No. 11-164 (JNE/SER)

Civil No. 13-2753 (JNE)

ORDER

On November 27, 2013, the Court denied Jimmy Earl Matthews's motion under 28 U.S.C. § 2255 (Supp. V 2011) without an evidentiary hearing and declined to issue a certificate of appealability. On December 9, 2013, Matthews deposited a notice of appeal with the prison officials at the institution where he is incarcerated. Nine days later, he deposited a motion to alter or amend the judgment and for additional findings, as well as a motion for an evidentiary hearing, with the prison officials at the institution where is incarcerated. Later, the Court received a "Motion for Leave of Court to Amend and Amendment of Notice of Appeal/Affidavit/Request for Certificate of Appealability."

"Rule 59(e) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence. Such motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment." *Holder v. United States*, 721 F.3d 979, 986 (8th Cir. 2013) (citation omitted) (internal quotation marks omitted). Having reviewed Matthews's motion to alter or amend the judgment and for additional findings, the Court discerns no errors that require correction and no need for additional findings.

The Court denies the motion to alter or amend the judgment and for additional findings. *See* Fed. R. Civ. P. 52(b); Fed. R. Civ. P. 59(e). Discerning no need for an evidentiary hearing, the Court denies the motion for one. Finally, Matthews did not sign the “Motion for Leave of Court to Amend and Amendment of Notice of Appeal/Affidavit/Request for Certificate of Appealability.” The Court denies it. In any case, it appears to be an attempt to obtain a certificate of appealability. The Court already declined to issue a certificate of appealability. It may be that Matthews’s “Motion for Leave of Court to Amend and Amendment of Notice of Appeal/Affidavit/Request for Certificate of Appealability” seeks a certificate of appealability from the court of appeals. *See* Fed. R. App. P. 22(b)(1). The Court directs the Clerk of Court to send a copy of the “Motion for Leave of Court to Amend and Amendment of Notice of Appeal/Affidavit/Request for Certificate of Appealability” to the court of appeals.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. Matthews’s motion to alter or amend the judgment and for additional findings [Docket No. 47] is DENIED.
2. Matthews’s motion for an evidentiary hearing [Docket No. 48] is DENIED.
3. Matthews’s “Motion for Leave of Court to Amend and Amendment of Notice of Appeal/Affidavit/Request for Certificate of Appealability” [Docket No. 49] is DENIED.
4. The Clerk of Court shall send a copy of Docket No. 49 to the United States Court of Appeals for the Eighth Circuit.

Dated: February 5, 2014

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge